

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

**IN RE: LITHIUM ION BATTERIES
ANTITRUST LITIGATION**

Case No.: 13-MD-2420 YGR

**ORDER DIRECTING FILING OF PROPOSED
FORM OF ORDER**

This Order Relates to:

**All Indirect Purchaser and Direct
Purchaser Actions**


The Court **ORDERS** the parties to file a proposed form of order setting forth all deadlines imposed orally at the last status conference, held February 7, 2014. The parties' submission shall include the schedule for briefing the next phase of motions to dismiss, as well as the issues to be briefed, consistent with the Court's guidance at the status conference. The parties shall file the proposed order no later than **Monday, February 24, 2014**.

The Court has considered the parties' oral argument and letter briefs concerning the timing of Defendants' proposed joint motion to strike nationwide class allegations from the Indirect Purchaser Plaintiffs' ("IPP") complaint. (Dkt. Nos. 378, 379.) The Court concludes that the matter is not suitable for hearing at this time. Assuming without deciding whether *Mazza v. American Honda Motor Co., Inc.*, 666 F.3d 581 (9th Cir. 2012), controls given the nature of the instant action, the rational and efficient dispositional order in this case is to resolve issues of IPP standing first, and only then to proceed to California's three-step governmental interest test. If applicable, California's governmental interest test would require the Court to make a threshold determination

1 of "whether the relevant law of each of the potentially affected jurisdictions with regard to the
2 particular issue in question is the same or different" as the substantive law of California. *Mazza* ,
3 666 F.3d at 590 (quoting *McCann v. Foster Wheeler LLC*, 48 Cal. 4th 68, 87 (Cal. 2010)).
4 Undertaking that analysis without having first ascertained in which "potentially affected
5 jurisdictions" the IPPs have standing to sue risks wasting both Court and party resources.
6 Accordingly, the Court shall not entertain the proposed joint motion to strike nationwide class
7 allegations at this juncture.

8 **IT IS SO ORDERED.**

9
10 Dated: February 19, 2014


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE

United States District Court
Northern District of California